

OVIN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Case No. 1:22-cv-08096-AKH

KERRY BERN,

Plaintiff,

v.

EMPIRE STATE RENOVATORS LLC,

Defendant.

PLAINTIFF'S MOTION FOR PREVAILING PARTY ATTORNEYS' FEES

Plaintiff Kerry Bern ("Plaintiff") hereby moves the Court for entry of an Order awarding his attorneys' fees incurred in the prosecution of this lawsuit and, in support thereof, states as follows:

1. On March 2, 2023, the Court entered a Final Judgment and Permanent Injunction (the "Final Judgment") [D.E. 14] against defendant Empire State Renovators LLC ("Defendant") in the amount of \$7,000.00 (as statutory damages for Plaintiff's claim of copyright infringement).

2. In the Final Judgment, the Court concluded that Plaintiff was entitled to recover his reasonable attorneys' fees and costs incurred in prosecuting this action:¹

Motion granted
4-25-23
A.K. [Signature]

¹ The basis for the Court's finding of entitlement was 17 U.S.C. § 505, which provides "the court in its discretion may allow the recovery of full costs by or against any party... the court may also award reasonable attorney's fee to pay the prevailing party as part of the costs."

The Court finds that an award of attorneys' fees and costs is appropriate here. Defendant's willful conduct, failure to engage Plaintiff in an attempt to pay a reasonable licensing fee, and failure to participate in this lawsuit resulted in unnecessary fees and costs being incurred. Plaintiff may proceed to file a timely Bill of Costs and/or motion to fix the amount of attorneys' fees to be awarded.

3. The Final Judgment retained jurisdiction to consider any motion for attorneys' fees, expenses, and costs. This motion is timely under Fed. R. Civ. P. 54(d)(2)(B).

4. As set forth in and established by the Declaration of Daniel DeSouza (attached hereto as Exhibit "A"), Plaintiff requests the Court to award attorneys' fees in the amount of \$2,636.25.

5. As set forth in the DeSouza Decl., Mr. DeSouza expended 2.85 hours of attorney time for the prosecution of this lawsuit at an hourly rate of \$450.00 per hour, Lauren Hausman (an associate) expended 4.20 hours of attorney time for prosecution of this lawsuit at an hourly rate of \$300.00 per hour, and Denise Sosa (a paralegal) expended .75 hours of paralegal time for the prosecution of this lawsuit at an hourly rate of \$125.00 per hour. Finally, Plaintiff incurred a total of \$637.70 in costs (consisting of the Complaint Filing Fee and the cost of the process server). A Bill of Costs is attached hereto as Exhibit "B."

6. In total, Plaintiff incurred a total of **\$3,273.95** in fees/costs prosecuting the matter.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order:

- A. Awarding Plaintiff a total of \$2,636.25 in reasonable attorneys' fees and \$637.70 in actual costs incurred in this matter; and
- B. Granting such other relief as is necessary and proper.

Dated: March 6, 2023.

COPYCAT LEGAL PLLC
3111 N. University Drive
Suite 301